Inmates with Disabilities

612.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for equal access to Thurston County Sheriff's Office services, programs, and activities for inmates with disabilities, in accordance with Title II of the Americans with Disabilities Act (ADA).

This policy also includes guidelines to provide effective communication with inmates with disabilities. See the Immigration Considerations Policy for direction regarding the state law prohibiting the use of federal immigration authorities as interpreters and language services providers.

612.1.1 DEFINITIONS

Definitions related to this policy include (28 CFR 35.104):

ADA Coordinator - The member designated by the Chief Deputy of Corrections to coordinate the correctional facility's efforts to comply with the ADA (28 CFR 35.107).

Assistive devices, auxiliary aids, and services - Tools used by inmates with disabilities to facilitate their participation in services, programs, and activities offered by the Thurston County Sheriff's Office and to facilitate effective communication. They include but are not limited to the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; a qualified interpreter; wheelchairs and other devices that facilitate mobility; audio books and large-print material; visible alarm signals; special diets; and lifts, trapeze bars, and shower chairs.

Disability - A physical or mental impairment that substantially limits a major life activity, including hearing, seeing, speaking, or performing manual tasks, regardless of whether the person uses assistive devices, auxiliary aids, and services. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102; 28 CFR 35.108).

Modification - Any change, adjustment, alteration, adaptation, or accommodation that renders the Thurston County Sheriff's Office service, program, or activity suitable for use, enjoyment, or participation by an inmate with a disability. This may include alteration of existing buildings and facilities.

A modification includes any change or exception to a policy, practice, or procedure that allows an inmate with a disability to have equal access to services, programs, and activities. It also includes the provision or use of assistive devices, auxiliary aids, and services.

Qualified interpreter - A person authorized by the Thurston County Sheriff's Office as a language services provider who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, transliterators, sign language interpreters, and intermediary interpreters.

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612.2 POLICY

It is the policy of the Thurston County Sheriff's Office that inmates with disabilities have equal access to services, programs, and activities of the Thurston County Sheriff's Office.

The Thurston County Sheriff's Office will not discriminate against or deny any inmate access to services, programs, or activities based upon the presence or suspected presence of disabilities.

612.3 ADA COORDINATOR RESPONSIBILITIES

The ADA Coordinator will work with the Chief Deputy of Corrections and the Responsible Physician as appropriate to (28 CFR 35.130):

(a) Establish procedures to determine at admission if modifications are necessary for participation in the correctional facility's services, programs, and activities, to document an inmate's disability and preferred assistive devices, auxiliary aids, or services as applicable, and to regularly reassess in consultation with the inmate whether alternative or additional modifications are necessary.

(b) Provide notice to inmates regarding the rights and protections afforded by the ADA (e.g., posters, published notices, handbooks, and orientation materials describing correctional facility services, programs, and activities and the availability of assistive devices, auxiliary aids, and services, as well as modifications) (28 CFR 35.106).

(c) Establish classification criteria to make housing assignments for inmates with disabilities.

1. Absent unusual circumstances, inmates with disabilities should not be (28 CFR 35.152):

(a) Housed in a medical area unless they are receiving medical care or treatment.

(b) Classified as special management inmates unless they meet the criteria provided in the Special Management Inmates Policy.

(d) Establish housing areas that are equipped to meet the physical needs of inmates with disabilities, including areas that allow for personal care and hygiene in a reasonably private setting, and that allow inmates with disabilities to be integrated into the larger inmate population as appropriate to the inmate's needs.

(e) Establish procedures for reviewing and processing requests for modifications that will help members provide inmates with disabilities access to the correctional facility's services, programs, and activities, as appropriate.

(f) Make reasonable modifications to policies, practices, and procedures as necessary to allow inmates with disabilities to participate in the correctional facility's services, programs, and activities.

(g) Enlist or contract with trained service personnel who have experience working with inmates with disabilities, and assign individuals with adequate training to assist inmates with disabilities with basic life functions as needed.

(h) Establish procedures for restraining, transporting, and moving inmates with disabilities.

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(i) Establish procedures that give inmates with disabilities equal opportunities to participate in or benefit from all aspects of the correctional facility's efforts to prevent, detect, and respond to sexual abuse and sexual harassment (28 CFR 115.16).

(j) Establish procedures for responding to commonly encountered disabilities such as sight or mobility impairments and intellectual or developmental disabilities.

(k) Develop, implement, and publish procedures to provide for prompt and equitable resolution of complaints and inquiries regarding discrimination in access to services, programs, and activities (28 CFR 35.107). The complaint procedures should include an appeal process.

(l) Establish procedures for provision, maintenance, and cleaning of assistive devices and auxiliary aids used by inmates.

(m) Act as a liaison with local disability advocacy groups or other disability-focused groups regarding access to the correctional facility's services, programs, and activities.

(n) Facilitate a process of periodic self-evaluation. The process should include:

1. Inspection of current facilities to identify access issues.
2. Review of current correctional facility services, activities, and programs for access issues.
3. Assessment and update, if necessary, of current compliance measures.
4. Identification of recurring areas of complaint for which new methods of modification should be considered.
5. Review of the correctional facility's emergency programs, services, and activities as they apply to inmates with disabilities.
6. Recommendation of a schedule to implement needed improvements.

(o) Develop and implement procedures to provide that new construction and any alteration to an existing building or facility are undertaken in compliance with the ADA (28 CFR 35.151).

(p) Verify that third parties providing services, programs, or activities to inmates through contract, outsourcing, licensing, or other arrangement have established reasonable policies and procedures to prevent discrimination against and denial of access to inmates with disabilities (28 CFR 35.152).

(q) Recommend amendments to this policy, as needed.

612.4 REQUESTS

The goal of any modification should be to allow an inmate with a disability to participate in the service, program, or activity the same as an inmate who does not have a disability. The Thurston County Sheriff's Office will not require inmates with disabilities to furnish their own assistive device, auxiliary aid, or service as a condition for receiving access to Thurston County Sheriff's Office services, programs, and activities (28 CFR 35.160).

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Upon receiving a request for a modification, members should make reasonable efforts to accommodate the request based upon the preference of the inmate with the disability by providing a reasonable modification consistent with any procedures related to the inmate's disability. Members should not ask about the nature and extent of an inmate's disability but should limit questions to elicit information necessary to determine the need for a modification and the appropriate type of modification.

If there are no current procedures in place, members receiving an inmate request for a modification should direct the inmate to provide the request in writing or assist the inmate in doing so, as needed. The written request should be brought to the on-duty supervisor as soon as practicable and during the member's current shift. The supervisor should review the request within 24 hours of receipt. The reviewing supervisor should evaluate the request and, if approved, notify the Chief Deputy of Corrections, ADA Coordinator, and any other members as necessary to implement the modification.

A supervisor who does not grant the modification, either in part or in full, should forward the request to the Chief Deputy of Corrections and the ADA Coordinator for processing as soon as reasonably practicable.

Requests that are minor and do not reasonably appear related to a significant or ongoing need may be addressed informally, such as rearranging chairs to make room for a wheelchair. Such requests need not be made in writing.

612.4.1 DENIAL OF A REQUEST

Requests for modifications should be approved unless complying with the request would result in (28 CFR 35.150):

(a) A substantial alteration of the service, program, or activity.

(b) An undue financial or administrative burden on the Thurston County Sheriff's Office. All resources available for use in the funding and operation of the service, program, or activity at issue should be considered in this determination.

(c) A threat to or the destruction of the historic significance of a historic property.

(d) A direct threat to the health or safety of others (28 CFR 35.139).

(e) A threat to the orderly operation or function of the correctional facility.

If any of these circumstances are present, the ADA Coordinator should work with Thurston County Sheriff's Office members and the inmate requesting the modification to determine if an alternative modification is available. If no alternative modification is appropriate, the ADA Coordinator shall issue a written statement explaining why a modification of the service, program, or activity will not be made (28 CFR 35.150).

Where physical modification of an existing building or facility, or new construction, would be unfeasible or unduly burdensome, the ADA Coordinator should work with Thurston County Sheriff's Office members and the inmate requesting the modification to determine whether

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alternative modifications are available. Alternative methods that should be considered include (28 CFR 35.150):

(a) Reassigning services, programs, or activities to accessible buildings or facilities.

(b) Utilizing technology, equipment, and vehicles or other conveyances.

(c) Any other means or methods that would make services, programs, or activities readily accessible.

612.4.2 SURCHARGES
Surcharges shall not be imposed upon inmates with disabilities to cover the costs of providing modifications (28 CFR 35.130(f)).

612.5 ASSISTIVE DEVICES AND AUXILIARY AIDS

An inmate should be permitted to retain assistive devices and auxiliary aids prescribed or recommended by a qualified health care professional. An inmate may be required to provide documentation from a qualified health care professional describing the medical necessity for the device or aid. Any devices and aids brought to the correctional facility by the inmate or by others after the inmate has been admitted shall be subject to a security check. The correctional facility accepts no responsibility for loss or damage to any device or aid provided by the inmate.

Any assistive device or auxiliary aid that is determined to present an imminent risk of bodily harm or an imminent risk to the security of the correctional facility may be temporarily removed from use and stored with the inmate's property. The ADA Coordinator or the Shift Supervisor should work with the inmate to make alternate modifications pending review by a qualified health care professional. The removal of a device or aid and any alternate accommodations made shall be noted in the daily log and the inmate's health care records.

Within 24 hours of any removal of an assistive device or auxiliary aid, a qualified health care professional will consult with the inmate and review relevant records to determine whether the permanent removal may be injurious to the inmate's health or safety. If the qualified health professional finds that the device or aid is medically necessary and the Chief Deputy of Corrections determines after investigation of the specific facts presented that it should not be returned because of verified security concerns, options include, as applicable:

(a) Reclassifying the inmate to an accessible housing unit or cell.

(b) With qualified health care professional approval, modifying the device or aid to meet the needs of the inmate and the security needs of the correctional facility.

(c) Supplying the inmate with an alternate device or aid.

(d) Providing the inmate with an opportunity to petition the court for the return of the device, in accordance with local, state, and federal law.

612.6 COMMUNICATIONS

Members should remain alert to the possibility of communication problems when engaging with inmates with disabilities. When a member knows or suspects an inmate requires assistance to

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effectively communicate, the member should identify the inmate's choice of assistive devices, auxiliary aids, and services. The inmate's choice should be honored unless another effective means of communication exists. Notice of an inmate's disability and preferred method of communication should be provided to members who have contact with the inmate so that effective communication may be achieved. Members should consider all information reasonably available to them when determining how to communicate with an inmate with a disability, including (28 CFR § 35.160):

(a) The methods of communication usually used by the inmate.

(b) The nature, length, and complexity of the communication involved.

(c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever modification reasonably appears effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the inmate who is deaf or hard of hearing would prefer a qualified sign language interpreter. Once the emergency has ended, the member should inquire as to the individual's preference and give primary consideration to that preference.

612.6.1 INTERVIEWS AND INTERROGATIONS

In an effort to ensure that the rights of inmates with disabilities are protected during any formal interview or interrogation that takes place in the correctional facility, the Thurston County Sheriff's Office will provide reasonable modifications before beginning an interview or interrogation, unless exigent circumstances exist or the inmate has made a clear indication that the inmate understands the process and desires to proceed without receiving a modification. If *Miranda* warnings are required under the circumstances, these should be provided to the inmate via the inmate's preferred method of communication.

Interrogations should be recorded whenever reasonably practicable.

612.6.2 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex interactions (e.g., the admissions process, health care consultations, classification interviews, disciplinary hearings) for inmates who normally rely on sign language or speechreading (i.e., lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the matter. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a legal proceeding.

Qualified interpreters should be:

(a) Available within a reasonable amount of time.

(b) Experienced in providing interpretation services in the person's primary language.

(c) Familiar with the use of text- and video-based communications products and systems.

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(d) Certified in either American Sign Language (ASL) or Signing Exact English (SEE).

(e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

(f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use correctional facility-approved procedures to request a qualified interpreter at the earliest reasonable opportunity or when it is reasonably apparent that an interpreter is needed. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. Inmates with disabilities shall not be required to provide their own interpreters (28 CFR 35.160).

Except in an emergency involving an imminent threat to the safety or welfare of any person and no qualified interpreter is reasonably available, members shall not use another inmate or a member who has not been hired or contracted specifically to serve as a qualified interpreter as an interpreter.

612.7 DOCUMENTATION

Whenever any modification has been provided, the member involved should document:

(a) The type of modification, assistive device, auxiliary aid, or service provided.

(b) Whether the individual elected to use an assistive device, auxiliary aid, or service provided by the correctional facility or another identified source, if applicable.

(c) Whether the individual's express preference for the modification was not honored and the reason an alternative method was used.

The documentation and any written communications exchanged should be maintained consistent with the Records and Data Practices Policy.

612.8 COMPLAINTS

A member who receives a complaint or becomes aware of potential disability discrimination, an ADA violation, or an inmate's inability to access a correctional facility service, program, or activity should document the complaint and promptly refer the matter to the ADA Coordinator (28 CFR 35.107). The Thurston County Sheriff's Office shall assist inmates with disabilities who require assistance to file a complaint regarding members of the Thurston County Sheriff's Office (see the Inmate Grievances Policy).

612.9 TRAINING

Members should receive periodic training on ADA compliance, to include:

(a) Awareness and understanding of this policy, related procedures and forms, and available resources.

(b) Procedures for handling requests for modifications.

(c) Accessing assistive devices, auxiliary aids, and services needed to accommodate requests for modifications.

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(d) General requirements of the ADA, including modifying policies and practices, communicating with and assisting inmates, accepting calls placed through alternative systems, and identifying alternate ways to provide access to services, programs, and activities as appropriate.

Management staff, even if they do not interact regularly with inmates with disabilities, should receive training as appropriate to understand and reinforce this policy.

Training records should be maintained in accordance with the established records retention schedule.

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